U.S. Access Board

About the U.S. Access Board

No FEAR Act Notice

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is generally referred to as the "No FEAR Act." One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Pub. L. 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Pub. L. 107-74, Title I, General Provisions, § 101(1).

The No FEAR Act also requires agencies, including the U.S. Access Board, to provide this notice to federal employees, former federal employees, and applicants for federal employment to inform them of the rights and protections available to them under federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

Federal agencies are prohibited from discriminating against employees or applicants with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age (40 or older), disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. § 2302(b)(1); 29 U.S.C. §§ 206(d), 631, 633a & 791; 42 U.S.C. § 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact an EEO counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of that action, before you can file a formal complaint of discrimination with the Access Board. See, e.g., 29 C.F.R. § 1614. Due to the small size of our agency, the Access Board contracts with the United States Postal Service's National EEO Investigative Services Office for the provision of EEO services. To initiate EEO counselling, you may contact Janine Lewis, EEO Services Analyst at Janine.H.Lewis@usps.gov *(mailto:Janine.H.Lewis@usps.gov)* or (813) 739-2028.

If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action. To initiate EEO counselling, you may contact Janine Lewis, EEO Services Analyst at Janine.H.Lewis@usps.gov *(mailto:Janine.H.Lewis@usps.gov)* or (813) 739-2028.

If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see below). In the alternative (or in some cases, in addition), you may pursue a grievance through the Access Board's administrative grievance process, where applicable.

Whistleblower Protection Laws

A federal employee who has the authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel. Complaints may be filed online using OSC's e-filing system (online form *(https://osc.gov/pages/file-complaint.aspx)*), or, alternatively, forms may be downloaded from OSC's website (fillable form *(https://osc.gov/Resources/osc11.pdf)*), completed offline, and submitted to OSC by mail or facsimile. Please see Form OSC-11 for additional information and instructions.

Retaliation for Engaging in Protected Activity

Federal agencies are prohibited from retaliating against an employee or applicant because that individual exercises his or her rights under any of the federal anti-discrimination or whistleblower protections laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the

"Antidiscrimination Laws" and/or "Whistleblower Protection Laws" sections (see above) in order to pursue any legal remedy.

Disciplinary Actions

Under existing laws, federal agencies retain the right, where appropriate, to discipline a federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws, permits an agency to take unfounded disciplinary action against a federal employee, or allows an agency to violate the procedural rights of a federal employee who has been accused of discrimination.

Additional Information

For further information regarding regulations implementing the No FEAR Act, please refer to 5 C.F.R. Part 724. Additional information regarding federal anti-discrimination, whistleblower protection, and workplace retaliation laws can be found at EEOC's website (www.eeoc.gov *(https://www.eeoc.gov)*) and OSC's website (www.osc.gov *(https://www.osc.gov)*).

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).